

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ANA CERVANTES,

Plaintiff,

v.

UNITED PARCEL SERVICE OF
AMERICA, INC.,

Defendant.

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1:17-CV-00570-ELR

ORDER

Plaintiff filed the Complaint in this action on February 15, 2017. [Doc 1]. The Court entered an Order on June 12, 2017, directing Plaintiff to show either that service had in fact been properly made or why Plaintiff had been unable to serve Defendant. [Doc. 4]. The Court warned that Plaintiff's failure to make such a showing would result in dismissal of this action without prejudice. [Id.]

On June 12, 2017, Plaintiff filed a proposed summons and then an electronic summons was issued to Defendant. [Docs. 5, 6]. Plaintiff then filed a Return of Service showing that Defendant had been served on June 14, 2017. [Doc. 7].

Plaintiff next filed a Response to the Court's Show Cause Order. [Docs. 12 & 13¹]. Plaintiff states that she filed her Complaint on February 15, 2017, and that Defendant has been served. [Id. at ¶¶ 2-3]. Plaintiff states that the summons was issued on June 13, 2017, and Plaintiff promptly delivered the summons to a private process server, who then served Defendant on June 14, 2017. [Id. at ¶¶ 5-7].

As noted in the Show Cause Order, Federal Rule of Civil Procedure 4(m) provides the following:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. This subdivision (m) does not apply to service in a foreign country under Rule 4(f) or 4(j)(1).

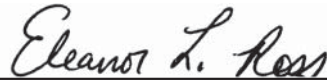
Plaintiff did not serve Defendant within ninety (90) days after the Complaint was filed on February 15, 2017. The Court then gave notice to Plaintiff via the Show Cause Order that service was not showing on the record. The Court also warned in the Show Cause Order that Plaintiff's failure to show either that service had been made or why Plaintiff had been unable to serve Defendant would result in dismissal of this action without prejudice. Plaintiff has not shown cause, much less good cause, for not serving Defendant within the ninety-day period. Plaintiff also never sought an extension of time to serve Defendant, even after the Court

¹ Plaintiff filed a initial Response to the Court's Order [Doc. 8] but then amended this Response in Docs. 12 and 13.

issued its Show Cause Order. Accordingly, the Court will dismiss Plaintiff's complaint without prejudice.

For the foregoing reasons, the Court **DISMISSES WITHOUT PREJUDICE** Plaintiff's Complaint [Doc. 1]; **DENIES AS MOOT** Defendant's Consent Motion for an Extension of Time to File an Answer [Doc. 9]; and **DIRECTS** the Clerk to close this case.

SO ORDERED, this 26th day of June, 2017.



Eleanor L. Ross
United States District Judge
Northern District of Georgia